



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

Consultation Paper on Ceasing Transitional Market Arrangements

CER/07/162

9th October, 2007

1: Introduction

On 4th October 2007, the Commission for Energy Regulation (‘the Commission’) received a Policy Direction from the Minister for Communications, Energy and Natural Resources. This Direction, which is included in the annex, was made under Section 9(1) (a) of the Electricity Regulation Act 1999 (‘the Act’) and directed the Commission to:

“publish proposals for the cessation of the system of contracts and other arrangements for trading in electricity established under the Electricity Regulation Act 1999 (Trading Arrangements in Electricity) Regulations 2000 (S.I. No. 49 of 2000).”

Under Section (9)(1) (b) of the Act the Commission is required to publish the Direction of the Minister and to engage in a public consultation on the proposals. This paper fulfils this obligation. Following this consultation, the Commission will publish its final decision taking into consideration any comments received.

2: Background

The existing wholesale electricity market (“the transitional market arrangements”) was established under Statutory Instrument (SI) No.49 of 2000 (*Electricity Regulation Act, 1999 (Trading Arrangements in Electricity) Regulations, 2000*). These arrangements are now to be superseded by an All-Island wholesale electricity market, referred to as the Single Electricity Market (‘SEM’).

The Single Electricity Market was developed by the Commission for Energy Regulation and the Northern Ireland Authority for Utility Regulation pursuant to a Memorandum of Understanding dated 23rd August 2004, the subsequent All-Island Energy Market Development Framework agreed in November 2004 between the Minister for Communications, Marine and Natural Resources in Ireland and the Minister with responsibility for Enterprise, Trade and Investment in Northern Ireland, and the Memorandum of Understanding between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland of December 2006.

On 3rd July 2007, Electricity Regulation Act 1999 (Single Electricity Market) Regulations 2007 (SI 406 of 2007) established the trading arrangements and other related matters considered necessary to establish and facilitate the operation of the Single Electricity Market (SEM). These Regulations provide for the Commission to determine the date upon which trading commences under the SEM Trading and Settlement Code. This date (‘the Market Start Date’) is expected to be specified by the Commission as 1st November 2007. From this date, all trading in the transitional market arrangements, referred to above, are to cease.

Under Section 9(1) (b) of the Act, on foot of the Policy Direction received from the Minister, the Commission is now consulting on its proposals to cease the transitional market arrangements.

3: Transitional Market Arrangements

As described, the existing market is established under Statutory Instrument 49 of 2000 ('SI 49'). This includes the provision for the transitional market Trading and Settlement Code ('the Code') which details the rules of the transitional market arrangements and the adoption of the Trading and Settlement Code by the Board (the Electricity Supply Board).

Section 8 of the Code refers to termination of the Code.

"8. TERMINATION OF THE CODE

8.1 No fixed duration

The Framework Agreement and the Code shall have no fixed duration.

8.2 Termination by the Commission

The Code shall be capable of termination only by the Commission. The Commission may impose such terms and conditions as it shall determine with respect to such termination".

In addition, Section 5 of the Code states that *"the code shall be modified in accordance with directions issued from time to time by the Commission pursuant to the Regulations."*

The Commission proposes to modify section 8 of the code as discussed in the next section of this paper.

4: Cessation of the Transitional Market

The following are the key dates with respect to the ceasing of the transitional market arrangements:

- The Transitional Market Cessation Date is the date from which the transitional market arrangements cease to have effect with respect to electricity trading from that point. This is expected to be 23.59.599999 on 31st October 2007 (it being the end of the last minute of the trading period for that calendar day);
- The Market Start Date is the date of commencement of the SEM, with the revised trading arrangements to apply to all electricity trading activities from that point, as defined in Statutory Instrument No. 406 of 2007 - *Electricity Regulation Act 1999 (Single Electricity Market) Regulations 2007*. This date will be determined by the Commission and is expected to be 00.00 on 1st November 2007 (it being the first minute of the first trading period of that calendar day). In advance of November 1st, the Regulatory Authorities will confirm that the SEM is going live on 1st November 2007;
- The Transitional Market Termination Date is the point at which the arrangements for the transitional market will cease fully. This will occur 7 years after the Transitional Market Cessation Date.

To facilitate the cessation of the transitional market arrangements, the Commission is proposing to amend Section 8 of the Code, given the powers under Section 5, to provide for the ceasing of the transitional market arrangements to have effect for trading days from the Market Start Date as follows:

8. TERMINATION/CESSATION OF THE CODE

8.1 ~~No fixed duration~~ Duration of the Code

~~The Framework Agreement and the Code shall have no fixed duration.~~

The Framework Agreement and the Code shall cease to have effect for the system of trading in electricity from the first trading period of the Market Start Date for SEM, as determined by the Commission in accordance with the *Electricity Regulation Act 1999 (Single Electricity Market) Regulations 2007*.

The Framework Agreement and the Code shall terminate from the first trading period of the Transitional Market Termination Date, which will fall 7 years after the Market Start Date for SEM, as determined by the Commission in accordance with the *Electricity Regulation Act 1999 (Single Electricity Market) Regulations 2007*.

Subsequent and subject to this consultation, the proposed modification shall be made to the Code. The Commission then proposes to make a Statutory Instrument which will state the date that SI 49, and hence the transitional trading arrangements will be revoked. This is expected to be 1st November 2007 (the Market Start Date). The Commission expects to publish the SI, subject to a decision on this paper, prior to the Market Start Date.

Certain rights and obligations, trading and non-trading, arising out of the transitional market arrangements are to remain in force for trading days up to the Transitional Market Cessation Date for a period of 7 years after the Market Start Date (at which point the transitional market is considered closed on the Transitional Market Termination Date). As the Code remains in effect until the Transitional Market Termination Date, the Attorney General's office advised that Section 27 of the Interpretation Act 2005 makes adequate provision for contractual obligations arising under the current trading and settlement code to continue until the Current Market Termination Date, notwithstanding the revocation of SI 49.

The Commission proposes that the transitional market Trading and Settlement Code modifications panel will terminate on the Transitional Market Cessation Date.

5: Elements of the Transitional Market to remain in force beyond the Transitional Market Cessation Date

As described certain specified elements of the existing wholesale market are required to remain in place to facilitate a smooth cessation of the market.

Resettlement

It is proposed that resettlement for the transitional market will continue for approximately 14 months beyond the Transitional Market Cessation Date. Adequate resources must be in place to provide for resettlement to function correctly, with respect to the processes and procedures to be carried out by the Settlement System Administrator (SSA), the Meter Registration System Operator (MRSO) and market participants.

Security Cover

Suitable security cover arrangements should remain in place over the period to final resettlement of the transitional market to reflect the liability (for top-up) imposed by participants of the transitional market. In order to avoid this being an administrative burden on both market participants and the SSA, participants shall be required to have security cover at the level in place by that participant at the last trading period of the current market (the Transitional Market Cessation Date), as notified by EirGrid, for the period to final payment of invoices for the transitional market.

Other Issues

- Disputes will continue to be dealt with in the manner provided for in Agreed Procedure No. 15 (Dispute Resolution Procedure), which will be required to remain in legal effect until the Transitional Market Termination Date.
- With respect to data retention, Section 22.2 of the transitional market Trading and Settlement Code shall continue. It states that:
“Each Party shall maintain in a safe and secure environment and in such form and allowing for such access as the Commission may from time to time approve all data and other information owned, held or used by it and required for the proper operation of the Electricity Trading and Settlement Rules or the Trading and Settlement System for a period of not less than 7 years from the date of such Party’s creation or receipt of such data or other information or for such shorter period as the Commission may from time to time approve.”

In addition, the present arrangements operated by the SSA with respect to data retention will remain in effect for a period of 7 years until the Transitional Market Termination Date.

- This year’s market audit will be an extended audit to cover an expected 19-month period until the start of the SEM – that is from 1st April 2006 until the Market Start Date. In addition, there will be an audit to cover resettlement when the market is finally fully resettled.
- The SSA is required to continue to resource operations for the transitional market such that all processes will be concluded in accordance with the established timelines currently in place.

6: Invitation to Comment

The Commission seeks views on the proposals outlined above.

Responses should be address to Dana Kelleher at the Commission (dkelleher@cer.ie) and should be received by close of business on Tuesday 16th October 2007.

It is intended that upon receipt and consideration of any comments, the Commission will publish a Decision on the proposals.

POLICY DIRECTION
To
The Commission for Energy Regulation
From
The Minister for Communications, Energy and Natural Resources
under section 9 (1)(a) of the Electricity Regulation Act 1999.

Whereas:

A: under section 9 (1) (a) of the Electricity Regulation Act 1999, the Minister for Communications, Energy and Natural Resources may give a direction to the Commission for Energy Regulation in relation to matters referred to in that paragraph;

B: On 3 July 2007 the Commission for Energy Regulation and the Northern Ireland Authority for Utility Regulation established the Single Electricity Market Trading and Settlement Code which Code was published on the All island project website (and which Code may be modified from time to time in accordance with the rules and procedures set out in that Code); and

C: that Code sets out the rules and procedures for an electricity trading and settlement system for the Single Electricity Market due to commence on the 1st day of November 2007;

THE Minister for Communications, Energy and Natural Resources, in exercise of the powers conferred on him by section 9 (1)(a) of the Electricity Regulation Act 1999 hereby directs the Commission for Energy Regulation to publish proposals for the cessation of the system of contracts and other arrangements for trading in electricity established under the Electricity Regulation Act 1999 (Trading Arrangements in Electricity) Regulations 2000 (S.I. No 49 of 2000).

L. S.

Given under my Official Seal,
4th October 2007.



Minister for Communications, Energy
and Natural Resources.